IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 81 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 29/12/2004 in WP NO : 24514 OF 2004 on the file of the High Court.)

Between:

The Canara Bank Staff Co-operative Building Society Limited, Regd.No.G 2711, Rep. by its Secretary,
L. Dasaradha Ramaiah, S-4, Sarada Towers, Beside Chennupati Service Station, Venkateswarapuram,
Vijayawada.

..... APPELLANT

AND

1 The Government of Andhra Pradesh, Rep. by its Principal Secretary,
Municipal Administration & Urban Development Department, Secretariat, Hyderabad.
2 The Municipal Corporation of Vijayawada. Rep. by its

Commissioner, Vijayawada.
3 The Director of Town & Country Planning, Andhra Pradesh, Hyderabad.

4 The Chairman, Vijayawada - Guntur - Tenali Urban Development Authority, Besant Road,
Vijayawada - 2.

.....RESPONDENTS

Counsel for the Appellant : MR.A.SREEDHAR

Counsel for the Respondent Nos.1 & 3: GP FOR MUNCIPAL ADMN. & URBAN DEV.

Counsel for the respondent No.2: MR. P.M. GOPAL RAO.

Counsel for the respondent No.4: MR. T.S. VENKATA RAMANA.

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1 . Writ petition was filed by the appellant. By order impugned in the writ appeal, passed on 29.12.2004, writ petition was dismissed at the admission stage itself. Case of the appellant was that respondents in proceeding with the construction of sewage pumping point station in land in Revenue Survey No.360/2 of Canara Bank Staff Cooperative Building Society Limited, Carrency Nagar, Vijayawada, covered by L.P.No.13/83/VGT-UDA, dated 05.05.1983 were acting illegally, arbitrarily and in high-handed manner in violation of Condition 20 imposed in the sanction letter. Learned single Judge at the admission stage dismissed the writ petition on the ground that once area is reserved for community purpose and hand been handed over to Municipal Administration, it was for Municipal Administration to decide how best the land can be utilised for the community purpose and no exception can be taken thereto, and more so when the power of deciding as to what the community purpose is vested in the respondents.

2. Case of the petitioner – appellant has been that the open space, as per Condition No.20, was to be handed over to Municipal Corporation through gift deed only for religious purpose and for no other purpose and it was so handed over to Municipal Corporation and Municipal Corporation had no right to utilise it for any other purpose. Condition No.20 reads as under:

> "20. The open space as suggested for public purpose in the covered layout shall be handed over to the Municipal Corporation through a gift deed for religious purpose and should be intimated to the authority ".

3. Learned single Judge without noticing Condition No.20 proceeded to dismiss the writ petition as if the open area was handed over to be utilised for community purpose.

4. Such a writ petition ought not to have been dismissed without taking the version of the respondents on record whether or not the respondents have violated the condition on which layout was permitted. We are informed that respondents are proceeding with the construction work. Therefore, we allow the writ appeal and set aside the impugned order with direction to the learned single Judge to entertain the writ petition and decide it in accordance with law. Writ petition will be posted for admission before the learned single Judge on 14.02.2005 and till the case is taken up for admission by learned single Judge, status quo as of today shall continue to be maintained as regards nature of the plot in question. No costs.

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DEVINDER GUPTA. C.J.,

M. NARAYANA REDDY. J.,

Dated: 20.01.2005.

VRK.

Note:

Operative portion by wire

at party's costs.

(BO)

To

1 The Principal Secretary to Govt.,
Municipal Administration & Urban Development
Department, Secretariat, Hyderabad.
2 The Commissioner, Municipal Corporation of
Vijayawada, Vijayawada.
3 The Director of Town & Country Planning, Andhra
Pradesh, Hyderabad.
4 The Chairman, Vijayawada - Guntur - Tenali Urban
Development Authority, Besant Road,
Vijayawada - 2.

5. Two CCs to G.P. for Municipal Admn., & Urban Development, High Court Buildings, Hyderabad (OUT).

6. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.A.NO. 81 OF 2005.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 20.01.2005.